

1 IN THE UNITED STATES DISTRICT
COURT for the district of West Virginia

OTIS MAYS

1:21 cv 3

Kleeh

MJA

Williams

FILED

JAN 07 2021

U.S.

CASE No.

U.S. DISTRICT COURT-WVN
CLARKSBURG, WV 26301

FCI-Gilmer, Warden Browers,
 Jane doe 1-5, John doe 1-5 and
 Unit manager Berryman.

COMPLAINT

1. The plaintiff, proceeding pro se,
 brings this civil rights complaint
 against the defendant for
 an emergency TRO and for an
 injunctive relief and a injunction
 under the bivens doctrine and
 alleges as follows:

JURISDICTION

1. All of the events described in this complaint occurred in the district of West Virginia.
2. The defendants are were United State federal law enforcement officials when the events described

IN THIS COMPLAINT OCCURRED
AND ARE SUED UNDER THE
BIVENS DOCTRINE.

PARTIES

The Defendants, FCI-Gilmer
Warden Bowers, Unit Manager
berryman, Jane Doe 1-5, John
Doe 1-5 and Warden Hussins.
Was employed as either a
Warden, Unit Manager, Correctional
Officer, Case Manager, Cuncier,
Captain, AW or an LT at the
Prison when the events in this
complaint occurred, and is
sued in both their personal
and in their official capacity.

The Plaintiff, OHM Mays, was
an inmate when the events
in this complaint occurred.

IMMUNITY

The violations in this
complaint were intentionally
committed against statutory

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and Constitutional Rights rights
clearly established at the
time of the violation. NO proper
defense of Qualified Immunity
can be raised as a result.

Pearson v. Callahan 556 U.S.
223, 231 (2009). The acts
committed by the defendants
sums rise to this complaint
were the results of willful,
reckless, malicious, and wanton
misconduct by the defendants
and are not covered by any
kind of Immunity. The
defendants are not entitled
to indemnity. The existence
over a period of months of
the practices and policies
in question in this complaint,
during which these practices
have been noticed and appealed
without responsive reply or
meaningful result, demonstrate
a mental state of deliberate
indifference to conditions on
the part of the defendants.

References in this petition to general policies and conditions are offered without any intent to raise claims on behalf of third parties.

FACTS

On November 10th on the Decem 18th. I talked to several FCI-Gilmer staff about my court hearings that was post to happen by video conference on Dec/18th at 9:00AM. But was told the day of the hearings it would have to be done by teleconference due to issue with the video machine. So I missed my first 15 min of my hearings. I talked to John Doe who also talked to court staff setting up my court hearings. I wrote the Warden as well as the Captain, unit manager

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Berryman A COP OUT/kite
TRYNS TO MAKE SURE THAT MY
bearings was set and all of
them either told me that they
WOULD LOOK INTO IT. BUT none
OF them got IT done.

Defendants Warden Hussins, Bowers,
Berryman, John doe 1-5 and
Jane doe 1-5 All are VIOLATINS MY
FIRST AMENDMENT RISHTS, AND
COMMITTHNS THE STATE LAW
TORT OF NEGLIGENCE, BY NOT
ALLOWINS ME "ANY" ACCESS TO
LAW LIBRARY ACCESS ITEMS. I
have been locked IN my cell
FOR 24 hours a day since
Dec/27 or 28th/2020 NOT
ALLOWED ACCESS TO THE LAW LIBRARY
TO REVIEW BOOKS OR ANYTHMS ELSE
THAT CAN HELP ME FILE MOTIONS
OR RESEARCH CASE LAW. NOT
I been allowed to use the
LAW LIBRARY COMPUTER WHICH
IS IN MY UNIT NOT even
12 feet from my room door.

I have verbally talked to Unit manager berryman 3 different times about setting access to the law library computer but has told me due to covid "No Inmate are allowed out of their cells due to a covid out break on the compound.

I have wrote Berryman a cop out statms that there are multiple inmates that come out these cells "Everyday to clean" and some that are just allowed to come out and do what ever. So what he say's can't be true. This was done on Dec-31-20 have not received a response. I have filed grievances on the issue to the Warden and sent an generic letter that is sent out to all inmates. I did not ask about beans released

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ON COVID but for some reason his letter talks about COVID ISSUE and being released. This makes me believe he didn't really read my letter. I have attached my letter and Warden HUSSM's response as well as my response to his generic letter, but have yet to receive a response. I have shown both Mr. Berryman and Councilor S. Frame dates of my due date to respond to my 2 case that I am proceeding in that judges in those case gave me deadlines to respond to. But nothing has been done to allow me ANY time on the law library computer to help me file my motion. By doing what they are doing they are denying me access to the court.

Defendants Berryman, Hoggins, John doe 1-5 and Jane doe 1-5. are currently violations and have violated my rights by denying me access to the courts in violation of the Plaintiff's Amendment + right to First Amendment, thus creates a basis for a claim against FCI-Gilmer, Berryman, Warden HUSSMS, Bowers, John doe 1-5 and Jane doe 1-5. Under the bivens doctrine.

Prayer for relief
Wherefore, the Plaintiff's request the following relief:

Order the defendant to allow me access to the law library to use the books and law library computer to research case law and use DVD player to listen to my discovery disc and other audio and video's from my discovery.

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2 I ASK FOR THE COURT TO ORDER I GET AT LEAST 3-5 HOURS A WEEK ACCESS.

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YOUR Honor

I AM NOT LOOKING FOR ANY MONEY ONLY TO BE GIVEN ACCESS TO THE LAW LIBRARY TO BE ALLOWED TO FILE THE THINGS THAT CAN AND WILL HELP ME FILE AND RESPOND TO COURT ORDERS AND MOTIONS. LIKE I HAVE STATED I HAVE TRIED TO TALK TO SEVERAL STAFF MEMBERS AND WRITE MEMORANDUMS TO HANDLE THIS AT THE PRISON BEFORE FILING THIS WITH THE COURT. BUT IT GOT ME NOWHERE. I HAVE ALREADY BEEN GIVEN 2 CONTINUEDS AND SURE THE COURT WILL NOT GIVE ME ANOTHER. MY NEXT DEADLINE DATE IS JAN-19TH-21. ONE OF THE REASONS I BELIEVE THIS IS AN EMERGENCY ISSUE IS BECAUSE IN LESS THAN 14 DAYS IF I DO NOT HAVE

my motion in my case will be dismissed and I'll lose out on my \$350 dollars I paid and have to repay and refile all my legal filings I've already filed. The prison also allows inmates out to clean the unit I'm in when inmates are only allowed 10 min showers on Mondays Wednesdays and Fridays.

Then there cell mates are allowed to be out doing whatever. The prison has a lot of inmates here with covid I agree but I can't see how it can be a problem for inmates with pending court motions to be allowed 60 minutes a day to sit at a computer to do case law research. The CDC has stated face coverings and 6 feet social distancing from other inmates, which I will and always where a

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a face covers and there
are only maybe 4 other
inmates out in the unit.
There is always 1 officer
in the unit at all time.

I've had this issue before
with FOI-Gilmer staff last
year and I wrote my
judge in MN and she
stated "The court encourages
BOP officials to ensure that,
consistent with legitimate
institutional interests, Mr.
Mays has access to the
materials and facilities he
needs to litigate his case.
However the court declined
to issue an order. Please
see attached.

I have done everything
to try to resolve this is
but all attempts have failed.
I have been told by staff
we will not be allowed

OUT OUR CELLS TO MID
FEB AND THAT'S AT THE
EARLIEST. CURRENTLY MY UNIT
HAVE NOT BEEN TESTED BY
ANY MEDICAL STAFF IN THE
LAST 2 WEEKS SHOWING ANYONE
HAS COVID, THEY HAVE
JUST PUT MORE THEN 10 PLUS
INMATES IN MY UNIT ON
I-5-21 FROM OTHER PRISONS.

INMATES ARE ALLOWED TO GO
SH IN THE SAME SPACE TO
COLLECT THEIR MEDS, THEY ARE ALLOWED
TO SEE MEDICAL STAFF AS WELL
DOWN BY THE COMPUTER.

ALL I'M TRYING TO DO IS BE ALLOWED
LIBRARY USAGE TO COMPLETE
MY LEGAL FITNESS.

THANK YOU
OHS MARY #21955041
FCI - Greenville
P.O. BOX 6000
Glenville, WV, 26351.